

# **EXHIBIT 5**

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**From:** Swartz, Justin  
**Sent:** Thursday, January 03, 2008 1:03 PM  
**To:** 'Andrew J. Voss (avoss@littler.com)'  
**Cc:** 'Michael Sweeney'  
**Subject:** RE: clark v. ecolab

Andrew –  
One additional note – we plan to seek leave to file a second amended complaint to add some more class representatives. The substantive factual allegations will not change.  
Please let me know whether you will oppose this application.  
Best regards,  
Justin

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**From:** Swartz, Justin  
**Sent:** Thursday, January 03, 2008 11:23 AM  
**To:** 'Andrew J. Voss (avoss@littler.com)'  
**Cc:** 'Michael Sweeney'  
**Subject:** clark v. ecolab

Andrew –  
Good to meet you by phone yesterday. I write to confirm that you do not oppose our request to respond to Defendant's motion to transfer on January 14. Let me know when you would you like to file your reply and we will write to the Court.  
Also, as we discussed, it might be helpful for us to have a general discussion about the case sometime soon. I am generally free next week. My co-counsel, Mike Sweeney (copied on this email), might want to join as well.  
Best regards,  
Justin

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